

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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U.S. BANK NA, SUCCESSOR TRUSTEE  
TO BANK OF AMERICA, NA,  
SUCCESSOR IN INTEREST TO  
LASALLE BANK, NA, ON BEHALF OF  
THE REGISTERED HOLDERS OF BEAR  
STEARNS ASSET BACKED  
SECURITIES I LLC, ASSET-BACKED  
CERTIFICATES, SERIES 2006-HE8, its  
successors and/or assigns,

Case No. 2:16-cv-00445-MMD-CWH  
ORDER

Plaintiff,

v.

ANTONIETA TOVAR-GUZMAN,  
ROBERT J. STONE SR., and DOE  
OCCUPANTS I through X, inclusive,

Defendants.

**I. SUMMARY**

Defendant Joseph Eugene Pivo ("Pivo"),<sup>1</sup> proceeding pro se, removed this action from the Henderson Justice Court for Clark County. (ECF No. 1.) Before the Court is Plaintiff U.S. Bank NA's motion to remand ("Motion"). (ECF No. 8.) The Court has reviewed Pivo's response (ECF Nos. 11, 13) and U.S. Bank's reply (ECF No. 15). For the reasons discussed herein, U.S. Bank's Motion is granted.

**II. BACKGROUND**

U.S. Bank filed a Verified Complaint for Unlawful Detainer ("Complaint"), seeking possession of the real property located at 1853 Indian Bend Drive in Henderson,

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<sup>1</sup>Pivo represents that he is named as a "DOE Occupant" in the underlying complaint. (ECF No. 1 at 1.)

1 Nevada (“the Property”). (ECF No. 8 at 19-21.) U.S. Bank alleges that it purchased the  
2 Property at a trustee’s sale but defendants were in possession of the Property. (*Id.* at 20.)  
3 U.S. Bank requests as relief possession of the Property, rent of no more than \$1,000.00  
4 and costs and fees in the total amount of \$596. (*Id.* at 21.)

### 5 III. DISCUSSION

6 Pivo alleges that removal is based on federal question jurisdiction. (ECF No. 1 at  
7 4-7.) As support, he makes allegations about the nature of the state court action and US  
8 Bank's alleged fraudulent conduct. (*Id.*) U.S. Bank counters that the Court lacks both  
9 federal question jurisdiction and diversity jurisdiction. (ECF No. 8.) The Court agrees.

10 Federal courts are courts of limited jurisdiction, having subject-matter jurisdiction  
11 only over matters authorized by the Constitution and Congress. U.S. Const. art. III, § 2,  
12 cl. 1; e.g., *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A suit  
13 filed in state court may be removed to federal court if the federal court would have had  
14 original jurisdiction over the suit. 28 U.S.C. § 1441(a). However, courts strictly construe  
15 the removal statute against removal jurisdiction, and “[f]ederal jurisdiction must be  
16 rejected if there is any doubt as to the right of removal in the first instance.” *Gaus v. Miles,*  
17 *Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (emphasis added). The party seeking removal  
18 bears the burden of establishing federal jurisdiction. *Durham v. Lockheed Martin Corp.*,  
19 445 F.3d 1247, 1252 (9th Cir. 2006).

The “presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). The Complaint involves an unlawful detainer claim. (ECF No. 8 at 19-21.) It does not present a federal question.<sup>2</sup> The Court thus cannot exercise federal question jurisdiction.

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<sup>27</sup> Piovo files counterclaims (ECF No. 5), but the Court only looks to the Complaint  
<sup>28</sup> to determine jurisdiction.

1       Nor does the Court have diversity jurisdiction. To establish subject matter  
2 jurisdiction pursuant to diversity of citizenship, the party asserting jurisdiction must show:  
3 (1) complete diversity of citizenship among opposing parties and (2) an amount in  
4 controversy exceeding \$75,000. 28 U.S.C. § 1332(a). Where a defendant removes a  
5 plaintiff's state action on the basis of diversity jurisdiction, the defendant must either: (1)  
6 demonstrate that it is facially evident from the plaintiff's complaint that the plaintiff seeks  
7 in excess of \$75,000, or (2) prove, by a preponderance of the evidence, that the amount  
8 in controversy meets the jurisdictional limit. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115 (9th  
9 Cir. 2004). U.S. Bank seeks possession of the Property and claims up to \$1000 in rent.  
10 Clearly, the amount at stake in the underlying action is less than \$75,000.<sup>3</sup>

11 **IV. CONCLUSION**

12 It is therefore ordered that U.S. Bank's motion to remand (ECF No. 8) is granted.

13 It is ordered that this case be remanded consistent with this Order.

14 The Clerk is instructed to close this case.

15 DATED THIS 20<sup>th</sup> day of October 2016.



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17 MIRANDA M. DU  
18 UNITED STATES DISTRICT JUDGE  
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<sup>3</sup>Piovo disputes U.S. Bank's ownership of the Property, but such dispute is not the claim presented in the Complaint.